**Low-Income Communities and Areas of Higher Distress:**

(a) Until the 2010 census information is incorporated, the CDFI Fund should consider materials from state or local agencies indicating that the poverty, unemployment rate, and area median income are different than the information provided by the CDFI Fund's Geocoder mapping census, which is based on the decennial census. This would allow the CDFI Fund to include census tracts that are currently excluded based on outdated information showing those census tracts as not highly distressed.

SMITHNMTC
Associates, LLC

The CDFI Fund's Geocoder mapping system is the definitive location for census tract information. Currently, if the CDFI Fund Geocoder mapping system cannot locate a census tract based on an address, the mapping system awards an erroneous census tract to that address which shows the address as not qualified. If the CDFI Fund's Geocoder mapping system cannot locate a census tract based on the census tract then the mapping system should notify the user that the census tract cannot be located based on that information rather than assigning an erroneous non-qualified census tract number. In those instances, it would be helpful if the person could be redirected to google maps or a similar system (policy mapping perhaps) to determine the correct census tract and FIPS code for the property so that the person checking could then verify the qualification with the FIPS code using the CDFI Fund geocoding system.

Another issue that arises is when there are smaller areas within a census tracts that are truly "pockets of poverty" that should qualify for NMTC funding, but that do not qualify because they are surrounded by moderate or middle income areas. If there was a way to pinpoint these smaller areas and enable them to qualify for NMTC funding, that would also be beneficial to the program and its mission. Though we do not know a particular methodology at present for this, if income level is reported by zip code that might be one potential tool.

(b) The commitment percentage for investing in Areas of Higher Distress should not be increased in the application from 75%. That amount already, at times, creates a barrier to worthwhile projects that fall within the program's mission from being funded due to the CDEs' need to meet or exceed that requirement. The difficulty with the requirement is that it sometimes creates an artificial barrier to funding excellent qualified projects. It does not always lead to the greatest and best use of the NMTC funding.

Regarding adding additional distress indicators or altering or eliminating existing ones, it would be helpful if areas targeted as higher distress areas or areas of planned redevelopment by other federal agencies also qualified as a targeted higher distress factor.

**Treatment of Certain Businesses**

(a) The existing list of business types that cannot qualify for the NMTC program is sufficient. As long as other proposed investments meet the other requirements of the NMTC program, additional restrictions are not necessary.

(b) The CDFI fund should not allow applicants to score more highly by committing to invest in certain business types over others. The more of these types of "incentive-based requirements" that are placed on applicants, the more you constrain the market and restrict the types of investments that will be made. For example, if you were to give more points for operating businesses, then you may end up preventing a CDE from funding an excellent real estate project that would bring jobs, homes and services to a community that needs them desperately. We have seen this occur in the marketplace with the focus on rural and the commitment some CDEs made to invest in rural projects in order to get the bonus points on the application. This has tied the hands of some CDEs, prevented them from investing in worthwhile urban projects, and made it more difficult for them to get their allocation out and working in the communities they serve because it is more difficult to find workable rural transactions.

SMITHNMTC
Associates, LLC

(c) Making it easier and legally manageable for there to be more equity investments and thus, a commonality of ownership after investment, would enable more transactions to occur that result in investment in operating businesses. In addition, making the credits applicable to AMT would enable new and different kinds of investors to enter the NMTC market which would further support the program's mission and potentially result in increased pricing for the credits as the investor market becomes more competitive and varied, thus pushing more funding down to the QALICBs and ultimately to the low income communities that benefit from the funding.

**Community Accountability**

(a) (1) Increasing the percentage of Low Income Community representatives on CDE boards and/or Advisory Boards is a good idea to help ensure accountability to the communities that the NMTC program is designed to serve. Perhaps increasing it to one-third or one-half of the board from 20% would be a good idea. This could help make sure that individuals representing these communities have a meaningful say in the CDE's activities. (2) Requiring locally-based Low Income Community Representatives is already implicit in the regulations. For example, if you are a CDE with a Georgia service area, then your representative board members will be from Georgia. However, if, on the other hand, CDFI means that even a national CDE would need to have a certain number of Low Income Community Representatives who are locally based, I am not sure how that would be effective for a CDE. National CDE's would be better off having primarily nationally focused board members. It gives them a better global view of the CDE's activities without leading to any favoritism of projects in particular locations.

(b) CDE community accountability standards should not vary depending on whether the board is governing or advisory. However, the board, whether governing or advisory, should have real and meaningful input in all investment decisions. The board should be the last stop decision-maker with regard to whether each project satisfies the community impact criteria and is an appropriate and good project for the proposed area.

(c) The entire board, not solely the Low Income Community Representatives, should have the final approval with regard to the community impact criteria, but not with regard to the business viability of each transaction and project. Thus, if a transaction is approved from a business perspective, by the CDE administration, it must then pass the board's community impact analysis and underwriting before the project can move forward.

(d) Though the projects that CDEs fund should be projects that community stakeholders support, specifically requiring that the CDE coordinate its activities with community stakeholders may not be practical. For example, with a national CDE, it may not make sense to have such a requirement. In addition, it is often the developer/QALICB that will conduct the activities in which community stakeholders are involved. However, many if not most CDEs already make an analysis regarding whether the QALICB has engaged the community and received its support for the project. This type of practice should be encouraged. Asking what types of criteria CDEs use when evaluating projects could provide that information as part of the application process.

(e) Regarding increasing the transparency of CDE activities, the suggested methods will not work for the following reasons. (i) It would be very difficult to make CDE meetings open to the public for several reasons. First, though generally one major meeting will be in person, other meetings will often be conducted via teleconference. For national CDEs, this type of flexibility is especially important since their boards tend to be spread out across the U.S. Further, it is possible that some of the projects discussed should not be discussed in a public arena until all the financing issues have been resolved. CDEs should be able to access their boards without public notice if immediate input is required. Additionally, they are not public bodies so requiring public notice seems inappropriate. (ii) The same with regard to publishing their minutes. (iii) CDE's should not be required to make their board member's contact information available to the public. They are not publicly traded, they are not a public entity and board members should not be subject to random public contact and communications. However, it would be appropriate to require CDE's to provide a contact address and email address with which to receive public comments regarding their activities. This would enable the public to comment on projects or particular areas, but without burdening the board members. For many board members, particularly advisory board members, this is not their sole job and the risk of being inundated by public communication may have a chilling effect on the willingness of certain individuals to serve on these boards. Often, these will be the very people who are involved in the types of activities in low-income communities that make them perfectly suited to serve on such boards as low-income community representatives.

(f) The Controlling Entity should not be required to meet the community accountability requirements. Though some Controlling Entities may be able to meet this requirement, it would be quite onerous for others and it is not necessary to ensure community accountability – if the board (whether advisory or governing) is given meaningful input and control over community impact underwriting decisions for the CDE's projects.

(g) CDE community accountability requirements should not differ for allocatee and non-allocatee CDEs.

(h) CDEs can enhance their accountability to Low income Communities in their service area by: (1) requiring such accountability of their QALICBs; (2) by making part of their pre-approval process a clear due diligence search and vetting of the benefits of the project to the local community and the existing community support for the project. If a CDE is a regional CDE, it could also conduct some of its own analysis and local meetings and fact-finding. If a CDE is national, it could still reach out to local agencies and other stake holders to determine community support and involvement. However, the CDE must make sure that it has coordinated any such efforts with the activities of the QALICB and developer so that it does not negatively impact the community outreach of the QALICB.

SMITHNMTC Associates, LLC

**Transaction Costs**

(a) (a) There should be disclosure requirements and the information should be available to the public. A form template should be required after a closing that allocates and reports all of the costs, including transaction fees to either the CDFI; or, if budget considerations do not permit this additional reporting to an industry funded entity for the same purpose. The transaction would then be scored and provided in a report similar to the monthly QEI report. This would allow the industry to be more competitive; and, if the scoring were used as an additional element to determine re-allocation; this would also serve to hold down costs. Since the QALICBs pay all of the costs, the CDEs and Investors are not incented to hold down transaction costs. If fees and resulting benefit information were to be made public and a part of consideration of further awards, then this would then make other parties more interested in not only holding down costs, but in being creative with new, more efficient delivery structures. By utilizing the "open capitalization" structure and transacting 12 QLICIs through the same leverage lender, Investment Fund and sub-CDE, we were able to spread these costs over more QALICBs, thus resulting in a total Compliance Period cost, per QALICB, of $34,592. If the same transaction (with the same exact costs) were to occur with one QALICB, the total Compliance Costs would be $285,823 (the difference above is attributable to additional auditing costs for more QALICBs). The average difference per QLICI in the open capitalization model is $34,592, as opposed to $285,823; a savings of $250,000. The transaction costs for the open capitalization structure averaged $50,698. Typical fees for a one (1) QALICB transaction can easily exceed $350,000; a savings of $300,000. Total savings per QLICI can exceed $500,000 per transaction. As manager of our own CDE, we have recently faced difficult NMTC delivery challenges that were met head-on by our team of professionals. Instead of asking them to cap their fees, we challenged them to come up with a more efficient form of delivering the NMTC benefit to QALICBs. Here is how we did it: We arranged for our structure to maintain open capitalization of the Leverage Lender, Investment Fund and (sub)CDE through 3 tranches of transactions. Each QLICI was associated with a separate QEI. Our particular CDE was funding Habitat for Humanity affiliates across the country. In this specific transaction, we aggregated 12 QALICBs in 3 transaction tranches that utilized the same Leverage Lender, Investment Fund and CDE. The result was very positive: Transaction Costs averaged $85,000 per QLICI originated through the structure. Further, because of the "open capitalization" structure, we were able to fund 12 QLICIs that averaged a size of $2,279,456. There were other striking advantages as well: Because of the re-use of the Leverage Lender, Investment Fund and sub-CDE entities (operating agreements were amended and re-stated), the costs for the continued tax and regulatory maintenance of all of these entities were spread across the 12 QALICBs, instead of one. Typical costs in a one (1) QALICB structure include a) Investment Costs of at least $7,500 per year (up to $12,500); b) CDE costs which can be as much as $12,000 annually; c) tax returns and audit costs for QALICBs and its Leverage Lender entities which can cost up to $5,000 per year; and d) specialized loan servicing which can amount to 20 bps of the QEI. The total amount of Compliance Period costs can easily exceed $500,000 over the Compliance Period term. In our transaction, the total amount of Compliance Period costs (exclusive of transaction expenses) of a) through d) totaled $415,000. By utilizing the "open capitalization" structure and transacting 12 QLICIs through the same LL, IF and sub-CDE, we were able to spread these costs over more QALICBs, thus resulting in a total Compliance Period cost, per QALICB, of $34,592. If the same transaction (with the same exact costs) were to occur with one QALICB, the total Compliance Costs would be $285,823 (the difference above is attributable to additional auditing costs for more QALICBs). The average difference per QLICI in the open capitalization model is $34,592, as opposed to $285,823; a savings of $250,000. The transaction costs for the open capitalization structure averaged $50,698. Typical fees for a one (1) QALICB transaction can easily exceed $350,000; a savings of $300,000. Total savings per QLICI can exceed $500,000 per transaction.

(b) Yes, a limit on fees would be helpful. The more efficient the delivery, the more awards the CDE should be able to receive. The CDFI Fund should provide three categories relating to total fees, but require that they be specified in an exhibit/chart. The limitations could be 5% of QLICI; 10% of QLICI and 15% of QLICI. And, the chart would require a breakdown of all front-end, ongoing and back-end means of compensation and to what parties, and the 5%, 10% and 15% would have to be the total of all of those fees, including closing costs. The extra points could be 5 points for 10% and 10 points for 5% .

(c) Regulations which encourage "open capitalization" of funds should be enacted. This would include reducing the recapture risk in a way that does not diminish the community impact and accountability goals of the program. Further, making equity investments possible without penalties in either tax consequences or Allocation Application analysis would also help.

SMITHNMTC Associates, LLC

**Evaluation of Financial Products**

(a) Yes, the CDFI Fund should adopt a defined Effective Annual Percentage Rate for purposes of the application and compliance measurement. The CDFI Fund does not need to alter the flexible rates and terms questions to base the scoring preference on a basis point reduce from a market benchmark determined by the CDE or a standard metric instead of a percentage. The benchmarks should not be raised

**Use of other federally subsidized financing in conjunction with NMTCs**

(a) There should not be any other restrictions on twinning NMTC funds with other federally-subsidized financing. Twinning various programs can help QALICBs, especially nonprofit borrowers, achieve their ultimate goal and create the capital stack they need in order to get their project done. There should be no difference whether the financing is made as part of the QEI or at the project level.

(b) If the goal is to spur investment in Low Income Communities and also to help rebuild those communities, then there should be no restriction on how much of the total capital stack is from federally-subsidized financing and how much is from NMTC and other private investment or other sources of funding.

(c) If the reporting requirements could, to the extent possible, be coordinated among and between public agencies that may overlap in providing funding to these projects that would be very helpful to CDEs. For example, NSP funding and NMTC funding might both be part of a project's financing. In that instance, the reporting for HUD and for CDFI could be coordinated. Another helpful practical tweak to the CDFI reporting system would be if it could be optimized not just for Internet Explorer, but also for Chrome or Firefox or Safari.